

PATENT COOPERATION TREATY

REC'D 27 MAY 2005

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From the
INTERNATIONAL SEARCHING AUTHORITY

To:

see form PCT/ISA/220

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/IB2004/004391

International filing date (day/month/year)
06.12.2004

Priority date (day/month/year)
05.12.2003

International Patent Classification (IPC) or both national classification and IPC
B65D83/30, B65D83/40, B05B11/00

Applicant
SHU PACKAGING PRODUCTS LIMITED

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA:



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**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/IB2004/004391

Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
☐ a sequence listing
☐ table(s) related to the sequence listing
 - b. format of material:
☐ in written format
☐ in computer readable form
 - c. time of filing/furnishing:
☐ contained in the international application as filed.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/IB2004/004391

Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	9-11 18 20 24
	No: Claims	1-8 12-17 19 21-23
Inventive step (IS)	Yes: Claims	10,11
	No: Claims	1-9 12-24
Industrial applicability (IA)	Yes: Claims	1-24
	No: Claims	

2. Citations and explanations

see separate sheet

Re Item V.

- 1 Reference is made to the following documents:
D1: GB-A-2 079 183 (FUMAKILLA LTD) 20 January 1982
D2: DE 92 11 501 U (KLÄGER PLASTIK GMBH) 19 November 1992

2 **Independent Claim 1**

- 2.1 The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of **claim 1 is not new** in the sense of Article 33(2) PCT.
Document D1 discloses (the references in parentheses applying to this document):

a dispensing device for a fluid comprising a container (1) for the fluid with a valve which is placed on the container and has an outlet opening, and a flexible tube (3) connected to the outlet opening for dispensing the fluid, wherein in a first state at least a distal tube part is encased by enclosing means for enclosing the distal tube part, and in a second state the distal tube part is movable at least partly outside the enclosing means.

3 **Independent Claims 21 and 24**

- 3.1 The present application does not meet the criteria of Article 33(1) PCT, because the subject matter of **claims 21 and 24 do not involve an inventive step** in the sense of Article 33(3)PCT.
- 3.2 Regarding **claim 21**, document D1, discloses a dispensing device comprising a valve, a fluid content, a tube for dispensing said fluid and enclosing means for enclosing said tube and implicitly discloses a method for manufacturing such a dispensing device. The manufacturing method defined in claim 21 comes within the scope of the customary practice followed by persons skilled in the art, especially as the advantages thus achieved can readily be foreseen. Consequently, the subject-matter of claim 21 lacks an inventive step.

3.3 Regarding **claim 24**, the feature of the opening of the container being arranged eccentrically is described in document D2 as providing the same advantages as in the present application. The skilled person would therefore regard it as a normal design option to include this feature in the container described in document D1 in order to solve the problem posed.

4 Dependent Claims 2-9, 12-20, 22, 23

Dependent claims 2-9, 12-20, 22, 23 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of novelty and/or inventive step (Article 33(2) and (3) PCT).

5 Dependent Claims 10, 11

The combination of the features of dependent claims 10, 11 are neither known from, nor rendered obvious by, the available prior art.